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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC ATTN: PATENT DOCKETING 32ND FLOOR P.O. BOX 7037 ATLANTA, GA 30357-0037			EXAMINER NGUYEN, TRI V	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/938,950	GLOVER ET AL.	
	Examiner	Art Unit	
	Tri V. Nguyen	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/28/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. In the amendment file on February 28th 2006, Claims 1-10 have been amended and dependent Claims 11-20 have been added. The currently pending claims considered below are Claims 1-20.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the transactions" in line 6. There is insufficient antecedent basis for this limitation in the claim and with respect to the parent claim 1.

Claims 6-8 recite the limitation "the purchasing and investing transactions" in line 3 and "the transaction" in line 6. There is insufficient antecedent basis for this limitation in the claim and with respect to the parent claim 2.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-10 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al. (US 6,345,261) in view of Loveland (US 2002/0052818).

Claim 1: Feidelson et al. discloses a method for providing a customer incentive program comprising the steps of:

- a. creating award accounts for a plurality of customers (col 2, lines 6-13; col 14, lines 34-44 and Fig 2);
 - b. collecting information pertaining to purchasing transactions made by an individual customer with at least one of a plurality of sellers using the award account (col 14, lines 45-67; col 15, lines 1-5 and Fig 2);
 - c. awarding equity interests in at least one of the sellers to at least one of the plurality of customers based at least in part on the customer's collected information (col 14, lines 45-67; col 15, lines 1-5 and Fig 2);
 - d. aggregating the equity interest awarded to the plurality of customers, the aggregate equity interests including awards for individual customer accounts (col 14, lines 45-67; col 15, lines 1-5 and Fig 2); and
- but does not explicitly disclose
- e. acquiring stock in the plurality of sellers representing the aggregate equity interests, and distributing the stock, including fractional shares of the sellers, into the individual customer accounts.

Feidelson et al. discloses acquiring securities related to the user's purchases at the participating merchants (col 4, lines 39-58). In an analogous art, Loveland teaches that it is known to use a reward system in which stocks of a merchant, including

fractional shares, are acquired based on purchases made at the merchant (page 9, parag. 91). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. with the feature of acquiring fractional shares of a merchant as taught by Loveland. One would have been motivated to modify the method for providing a diversification of the portfolio without the limitation of high-priced shares thus ensuring that most of the award account is being invested.

Claim 2: Feidelson et al. and Loveland disclose a method as recited in claim 1, further comprising the purchasing transactions include purchases of goods or services using the Internet (Feidelson et al.: col 7, lines 1-33 and Figs 1 and 3).

Claim 3: Feidelson et al. and Loveland disclose a method as recited in claim 1, further comprising the step of creating accounts is performed using the Internet (Feidelson et al.: col 7, lines 1-33; col 7, lines 65-67; col 8, lines 1-25 and Figs 1 and 3).

Claim 4: Feidelson et al. and Loveland disclose a method as recited in claim 1, further comprising the step of collecting information is performed using the Internet (Feidelson et al.: col 7, lines 1-33 and Figs 1 and 3).

Claim 5: Feidelson et al. and Loveland disclose a method as recited in claim 1, further comprising awarding equity interests to the customers by:

a. determining values associated with the purchasing and investing transactions of each customer using his award account (Feidelson et al.: col 14, lines 60-67; col 15, lines 1-15 and Fig 2);

b. awarding an equity interest to each customer in an amount based on the value associated with the transactions (Feidelson et al.: col 14, lines 60-67; col 15, lines 1-15 and Fig 2).

Claim 6: Feidelson et al. and Loveland disclose a method as recited in claim 2, further comprising the step of awarding equity interests to the plurality of customers by:

a. determining values associated with the purchasing and investing transactions of each customer using his award account (Feidelson et al.: col 7, 1-33 and Fig 2);

b. awarding an equity interest to each customer in an amount based on the value associated with the transactions (Feidelson et al.: col 7, 1-33 and Fig 2).

Claim 7: Feidelson et al. and Loveland disclose a method as recited in claim 3, further comprising the step of awarding equity interests to the plurality of customers by:

a. determining values associated with the purchasing and investing transactions of each customer using his award account (Feidelson et al.: col 7, 1-33 and Fig 2);

b. awarding an equity interest to each customer in an amount based on the value associated with the transactions (Feidelson et al.: col 7, 1-33 and Fig 2).

Claim 8: Feidelson et al. and Loveland disclose a method as recited in any of claim 4, further comprising the step of awarding equity interests to the plurality of customers by::

- a. determining values associated with the purchasing and investing transactions of each customer using his award account (Feidelson et al.: col 7, 1-33 and Fig 2);
- b. awarding an equity interest to each customer in an amount based on the value associated with the transactions (Feidelson et al.: col 7, 1-33 and Fig 2).

Claim 9 is rejected as related to claim 1 as claim 9 describes a system for implementing the method of claim 1 that is disclosed by Feidelson et al. and Loveland.

Claim 10 is rejected as related to claim 2 as claim 10 describes a system for implementing the method of claim 2 that is disclosed by Feidelson et al. and Loveland.

Claim 14: Feidelson et al. and Loveland disclose a method as recited in claim 1 but do not explicitly disclose further comprising the step of allowing a customer to pay for a transaction by selling a portion of the stock including fractional shares distributed to the customer's award account. In an analogous art, Loveland teaches that it is known to use a reward system in which users can buy and sell stocks including fractional shares via a portfolio management scheme (page 7, parag. 72; pages 9-10, parag. 91-92 and page 11, parag. 104). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. with the feature of allowing the user to sell the investment vehicle as taught by Loveland. One would have been motivated to modify the method of Feidelson et al. for providing an added feature of trading for investment vehicles to the account receiving equity thus enticing the consumer to open an account and increase spending via the present shopping channel.

Claim 15: Feidelson et al. and Loveland disclose a method as recited in claim 14 but do not explicitly disclose further comprising selling a portion of the stock including fractional shares at a current bid price for shares of the stock on an open market. In an analogous art, Loveland teaches that it is known to use a reward system in which users buy and sell publicly quoted stocks including fractional shares via a portfolio management scheme (page 7, parag. 72; pages 9-10, parag. 91-92 and page 11, parag. 104). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. with the feature of allowing the user to sell the investment vehicle in the open market as taught by Loveland. One would have been motivated to modify the method of Feidelson et al. for providing an added feature of trading investment vehicles to the account and receiving equity thus enticing the consumer to open an account and increase spending via the present shopping channel.

Claim 16: Feidelson et al. and Loveland disclose a method as recited in claim 15 but do not explicitly disclose further comprising the step of adding a difference between the bid and an ask price for the stock being sold to the customer incentive program for subsequent awards. In an analogous art, Loveland teaches that it is known to use a reward system in which users buy and sell publicly quoted stocks including fractional shares via a portfolio management scheme with the equity equivalence being transferred to the users' fund (page 7, parag. 72; pages 9-10, parag. 91-92 and page 11, parag. 104). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. with the

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feature of allowing the user to sell the investment vehicle as taught by Loveland. One would have been motivated to modify the method of Feidelson et al. for providing an added feature of trading investment vehicles to the account and receiving equity thus enticing the consumer to open an account and increase spending via the present shopping channel.

6. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al. and Loveland as applied to the claims above and further in view of Walker et al. (US 6,327,573).

Claim 11: Feidelson et al. and Loveland disclose a method as recited in claim 1 but do not explicitly disclose further comprising the step of assigning a customer to a tier level based on the customer's level of shopping and investing with a seller in the customer incentive program. In an analogous art, Walker et al. teaches that it is known to use a reward system in which specific rewards are allocated depending on the threshold level or tier of the consumers (col 9, line 55 to col 10, line 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. and Loveland with the feature of presenting incentives based on the level of the user as taught by Walker et al. One would have been motivated to modify the method for providing an encouragement for increased spending from the users desiring a different or superior reward.

Claim 12: Feidelson et al., Loveland and Walker et al. disclose a method as recited in claim 11 but do not explicitly disclose further including providing incentives to the customer at a specific tier level that are not provided to customers at lower tier

levels. In an analogous art, Walker et al. teaches that it is known to use a reward system in which specific rewards are allocated depending on the threshold level or tier of the consumers (col 9, line 55 to col 10, line 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. and Loveland with the feature of presenting incentives based on the level of the user as taught by Walker et al. One would have been motivated to modify the method for providing an encouragement for increased spending from the users desiring a different or superior reward.

Claim 13: Feidelson et al., Loveland and Walker et al. disclose a method as recited in claim 12 but do not explicitly disclose further comprising the incentives including at least one of an advanced purchase option, a discount, a coupon, a bonus and additional seller stock. In an analogous art, Walker et al. teaches that it is known to use a reward system in which specific rewards such as merchandise or service coupons are allocated depending on the threshold level or tier of the consumers (col 9, line 55 to col 10, line 11). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. and Loveland with the feature of presenting incentives based on the level of the user as taught by Walker et al. One would have been motivated to modify the method for providing an encouragement for increased spending from the users desiring a different or superior reward.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al. and Loveland as applied to the claims above and further in view of Hucal (US 6,836,764).

Claim 17: Feidelson et al. and Loveland disclose a method as recited in claim 1 but do not explicitly disclose further comprising the step of issuing a credit card to a customer with a variable rate that is based on a value of the stock holdings in the customer's award account. Both Feidelson et al. and Loveland recite the use of a credit card in the reward system. In an analogous art, Hucal teaches that it is known to use a reward system in which the interest of the credit card depends on the threshold level of the consumers' fund (col 4, lines 14-39). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. and Loveland with the feature of presenting incentives based on the level of the user as taught by Hucal. One would have been motivated to modify the method for providing a feature that encourages increased spending from the users desiring a better interest rate tied in to the credit card.

8. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al. and Loveland as applied to the claims above and further in view of Hardesty (US 6,105,865)

Claims 17-18: Feidelson et al. and Loveland disclose a method as recited in the claim above but do not explicitly disclose further comprising distributing the stock to another entity specified by the customer instead of distributing the stock to the customer's account and the another entity is at least one of a family member, a friend, a charitable institution and an educational institution. Both Feidelson et al. and Loveland recite the use of a credit card in the reward system. In an analogous art, Hardesty teaches that it is known to use a reward system in which the investment accumulated by the user are allocated to a third party designated by the user such as charities (col 7,

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lines 13-21). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. and Loveland with the feature of distributing the accumulated to a designated beneficiary as taught by Hardesty. One would have been motivated to modify the method for providing a feature to attract a wider and diverse range of users such as philanthropist.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feidelson et al. and Loveland as applied to the claims above and further in view of Walker et al. (US 6,128,599).

Claim 20: Feidelson et al. and Loveland disclose a method as recited in claim 1 but do not explicitly disclose further comprising the step of awarding equity interests to a customer based on referrals of potential customers to the customer incentive program. In an analogous art, Walker et al. teaches that it is known to use a reward system in which a finder's fee is allocated to a user who has successfully refers a new user (col 11, lines 13-26). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Feidelson et al. and Loveland with the feature of a referral fee as taught by Walker et al. One would have been motivated to modify the method for providing an incentive for present users to attract new customers thus increasing the customer base and greater profitability via a bigger market share.

Response to Arguments

10. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

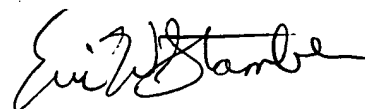
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri V. Nguyen whose telephone number is (571) 272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029 and Eric Stamber on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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